

NORTH BEND CITY COUNCIL MINUTES

April 16, 2013

Senior Center, 411 Main Ave. S., North Bend, Washington

CALL TO ORDER, ROLL CALL:

Mayor Hearing called the regular meeting to order at 7:00 p.m.

Councilmembers Present: Cook, Gothelf, Kolodejchuk, Loudenback, Pettersen, Rosen and Williamson.

Councilmember Rosen **MOVED**, seconded by Councilmember Loudenback to pull and remand to the April 23, 2013 Council Workstudy AB13-041 – Authorizing Benefits for Mayor through AWC Employee Benefit Trust. The motion **PASSED** 7-0.

CONSENT AGENDA:

Minutes – Council Meeting of April 2, 2013

Payroll – April 5, 2013 – 26894 through 26900, in the amount of \$126,260.72

Checks – April 16, 2013 – 58001 through 58049, in the amount of \$811,211.62

AB13-038 – Resolution 1616 Authorizing MTSG Contract for Tollgate Farm Weed Removal

AB13-039 – Motion Authorizing On-Call Contract with Golder Associates

AB13-040 – Motion Authorizing Change Order No. 8 for Fire Station 87 Project

Councilmember Rosen **MOVED**, seconded by Councilmember Gothelf to approve the consent agenda as amended. The motion **PASSED** 6-0 (Kolodejchuk abstained).

ANNOUNCEMENTS, PRESENTATIONS, APPOINTMENTS:

Deanna Dawson, Executive Director of Sound Cities Association, said it was a pleasure to be present and noted that the organization had made a recent name change from Suburban Cities Association to Sound Cities Association. She explained the name change was a result of a recent survey of the 35 member cities throughout King County and more accurately reflected that most cities were no longer viewed as a suburb of Seattle as they were considered in the 1970's when the organization was first formed.

She stated the organization was designed to engage regionally and to partner with cities on important issues and projects and was available to provide support on policy, research, analysis, training and networking opportunities. She noted that Mayor Hearing had served as past president and that he and Councilmember Loudenback continue to contribute as members of key SCA committees. She encouraged Councilmembers to come and sit in on any of SCA's regional boards and committees, and to get involved with those that they had a strong interest in.

Ms. Dawson concluded by stating the SCA was currently working on a project to encourage community engagement and was researching the various methods member cities use to engage their communities.

COMMISSION AND COMMITTEE REPORTS:

Community & Economic Development Director Estep reported the April 11th Planning Commission meeting had been cancelled. The next Planning Commission meeting was scheduled for April 25th at 7 p.m. at City Hall.

Community & Economic Development Director Estep stated at the March 27th Parks Commission meeting the Snoqualmie Valley Little League was present to discuss ideas they had for ball field improvements at Torguson Park. Additionally, Commissioners discussed landscape and trail plans at the new Si View Estates subdivision.

Community & Economic Development Director Estep noted the March 28th Economic Development Commission meeting had been cancelled.

Public Works Director Page explained the new Fire Station 87 project was approximately 30 days ahead of schedule. He reported paving was complete and the contractor was currently working on finishing interior and exterior painting, and installation of a fence along the perimeter of the property. Mayor Hearing noted that a tentative date of July 20th had been set for the ribbon cutting ceremony.

Councilmember Pettersen reported the Community & Economic Development Committee had met earlier in the day to discuss Planning Commission recommendations for possible amendments for single family residential uses in the cottage residential zone and a Parks Commission recommendation for improvements to William H Taylor Park.

Councilmember Gothelf remarked the April 2nd Finance & Administration Committee had been cancelled and the next meeting was scheduled for May 7th at 4 p.m. at City Hall.

Councilmember Loudonback stated at the April 9th Public Health & Safety Committee topics of discussion included selection of public defenders and prosecutors, ILA amendment to the Snoqualmie Police contract, Eastside Fire & Rescue Update, fire code amendment process update, and extra police patrols.

Councilmember Kolodejchuk reported the Transportation & Public Works Committee had met on April 10th to discuss development issues, an on-call contract with Golder & Associates, North Bend Way/Cedar Falls Way roundabout landscaping, submittal of a Federal Land Access Grant and Community Development Block Grant, repairs at the WWTP, overlay paving budget and employee updates.

Mayor Pro Tem Cook reported at the March 26th Workstudy Council discussed civic

center design and funding options, and public safety issues.

INTRODUCTIONS:

AB13-042 – Public Hearing, Ordinance 1481 – Interim Zoning Controls Related to Cottage Residential Zone

Community & Economic Development Director Estep reported the North Bend Municipal Code, Comprehensive Plan, and Zoning Map provided for a Cottage Residential (“CR”) zoning district. Approval of a planned neighborhood district (“PND”) under NBMC 18.12 was now required for any development in the CR district. The purpose of a PND was to encourage a greater variety of mixed housing types, sizes, and prices, including innovative and/or affordable housing, with flexible bulk and dimensional standards, which were designed to be compatible with neighboring properties.

As currently adopted, NBMC 18.12 PND was unclear regarding the mix of housing types permitted within the CR District. NBMC Chapter 18.10.030 Permitted and Conditional Uses, 18.40.040 Bulk and Dimensional Standards, and 18.10.050 Performance Standards were vague as they could be read to permit standard sized single family residential housing units within the Cottage Residential district.

The intent of the City Council in adopting the Cottage Residential district was to encourage innovative housing types of predominantly single-family detached housing, but in size and scale smaller than standard sized single family residential units (i.e., “cottage” housing); and to create greater choices for homebuyers of varying economic means in North Bend. Ms. Estep clarified the Cottage Residential Zone included a maximum of fifteen percent attached housing on smaller lots with densities from six to ten dwelling units per gross acre and limited the structures to 1,200 to 1,600 square feet, plus garage.

In adopting the Cottage Residential district, the City Council did not intend to allow standard sized single family homes in neighborhoods in the zone. They found it necessary to clarify their intent in adopting the Cottage Residential zoning district by passing Ordinance 1481 on March 5, 2013 which established interim zoning controls and allowed for sufficient time for the Planning Commission to evaluate and recommend any further necessary code amendments, while also ensuring that applications to develop projects inconsistent with the intent of the City Council do not vest. One of the requirements of the ordinance was that a public hearing was to be held within 60 days of the passage of the ordinance to allow for public comment in association with this interim Zoning Control.

Mayor Hearing opened the Public Hearing on the Ordinance 1481 – Interim Zoning Controls Related to Cottage Residential Zone at 7:23 p.m.

Steve Short, Owner of Washington Farm & Land Company, stated he was present as a

representative of Myron & Diane Sangren, owners of a five acre parcel in the Cottage Residential Zoning District. He commented that the Sangren's were very frustrated, particularly with the restrictions the zoning had placed upon their parcel and the large assessment recently received as part of ULID No. 6. Mr. Short explained that two developers had been interested in the Sangren's parcel of land but had rejected developing it because the restrictions on housing sizes in the zone would not make it an economically viable project. He requested an increase in size of up to 2,000 square feet per house be considered.

Joe Jake, Sammamish, Real Estate Broker and previous owner of the Martin Sangren property, noted the parcel was originally zoned for four houses but was rezoned to Cottage Housing during his ownership. He had attempted to sell the property after the rezone but due to lack of developer interest in cottage housing had to relinquish the property to Mr. Sangren. He noted in his professional experience the typical buyer in North Bend was family oriented and required a larger living space. He requested the size limitations be increased by twenty percent.

Mayor Hearing closed the Public Hearing on Ordinance 1481 – Interim Zoning Controls Related to Cottage Residential Zone at 7:31 p.m.

City Administrator Lindell reiterated that the public hearing was required by state law and the purpose was to allow public comment on the interim zoning that was adopted by Ordinance 1481. She added that there was no requirement for Council to take action tonight.

Councilmember Williamson expressed concern that the size restrictions were too limited and asked what the procedure was regarding the interim zoning. Ms. Lindell clarified that the Planning Commission would have to address the interim zoning as identified in Ordinance 1481 and following their recommendation it would be brought back at a future meeting for Council consideration.

Ms. Estep noted that with the direction received at the March 5th Council meeting the Planning Commission had reviewed the interim zoning at their last meeting. However, in light of tonight's comments, she would inquire whether they wished to further discuss the issue.

AB13-043 – Public Hearing, Ordinance 1482 – Interim Zoning Controls Related to Home Occupation Business Licenses

Community & Economic Development Director Estep explained in 2008 the City adopted provisions related to tattoo parlors that established the use as permitted in the Employment Park 2 (EP2) zone only (NBMC 18.10.030). She noted that it was the only zone in the City which permitted that commercial use.

Recently the City had an inquiry about this type of use as a home occupation and upon

review of the code an area of inconsistency was discovered which resulted in the issue being brought forward to Council at its March 5, 2013 meeting. Upon review of the issue, Council adopted Ordinance 1482 establishing interim zoning controls related to home occupation business licenses. The amendments provided that medical marijuana collective gardens or other uses involving legal sales or exchanges of marijuana, the provision of tattoos, and the provision of body piercings would not be permitted through a home occupation business license.

The ordinance was brought forward as an emergency ordinance. A requirement of Ordinance 1482 was that a public hearing on the interim zoning control be held no later than sixty (60) days following its adoption. The public hearing was advertised and scheduled for tonight's meeting.

The interim regulations would remain in place while the Planning Commission evaluated and recommended further municipal code amendments to address the issue, which would include a public hearing on those amendments.

City Administrator Lindell reiterated that Ordinance 1482 was an interim ordinance that amended NBMC regarding home occupation business licenses, and that clarified Council's intent in 2008 was to prohibit tattoo parlors in the Downtown Commercial (DC) zone or any other zone except EP2. She noted that the interim ordinance addressed inconsistencies discovered between sections of NBMC that dealt with home occupations and permitted uses in certain zones of the City.

Mayor Hearing opened the Public Hearing on Ordinance 1482 – Interim Zoning Controls Related to Home Occupation Business Licenses at 7:38 p.m.

David Herman, 230 Ballarat N, Unit A, Owner of Ambrosia Tattoo Gallery LLC, provided a history of his business license application for a tattoo parlor as a home occupation. He questioned the length of time and circumstances surrounding the processing of his business license, and the interim zoning code established on March 5th related to home occupation business licenses that disallowed his business as a home occupation. He asked Council to consider repealing Ordinance 1482 and requested that Councilmember Cook recuse himself due to a conflict of interest.

Nick Hadeen, 101 Bendigo Blvd N., Unit 9, commented that it didn't make sense that tattoo parlors were not an allowable use in the DC zone yet adult entertainment was a permitted use in that zone. He added that as a citizen of North Bend he would be more concerned with the type of clients that would visit an adult entertainment facility as opposed to the types of clients that would visit a high end tattoo parlor. He asked that Council consider allowing the business for a period of two years.

Phil Lacefield Jr., 319 E 3rd Street, stated he was in favor of the tattoo parlor being able to open in North Bend. He explained he was the owner of a home based business in close proximity to Mr. Herman's tattoo parlor and he, unlike Mr. Herman, had encountered no

difficulty opening his business. He added that he was considering moving his business away from North Bend given the current uncertainty surrounding home occupation business licenses.

Mayor Hearing closed the Public Hearing at 7:46 p.m.

City Administrator Lindell noted the public hearing was required by state statute as a result of Council adopting Ordinance 1482 which adopted interim zoning controls related to home occupation business licenses. She added that the interim zoning controls still needed to be reviewed by the Planning Commission and following their recommendation the issue would be brought back for Council consideration at a future meeting.

Councilmember Rosen stated his original intent in adopting the interim zoning controls was to enforce the current zoning code. However, since that time he had taken the opportunity to listen to citizens about how they felt on the issue and as a result became curious about how those that lived close to, and where most affected by the tattoo parlor, felt about the issue. When he questioned those residents the overwhelming majority indicated they did not want the tattoo parlor in the neighborhood.

Councilmember Cook commented that Mr. Herman had mentioned that he had a conflict of interest in the matter since he lived in close proximity to the tattoo parlor and asked City Administrator Lindell if that was true. City Administrator Lindell replied that state law surrounding such matters dictated that a conflict of interest would arise only if Councilmember Cook had a financial interest in Mr. Herman's tattoo parlor and since he did not there was no conflict of interest present. Councilmember Cook clarified that his vote in support of the interim ordinance would have been the same regardless of where he lived in the City and that his intent was to maintain the original intent the Council had regarding zoning of the downtown area.

Councilmember Loudonback remarked that Mr. Herman's application had given the City an opportunity to improve the existing code. He reiterated his comments from the March 5th Council meeting that Mr. Herman's application for a home occupation business license be approved pending his conformance with regulations regarding home occupation businesses. He added that this issue should have been considered as a stand-alone issue and then the code could be reviewed and strengthened to avoid future conflicts of this nature.

Councilmember Williamson commented that he understood that the use of a tattoo parlor as a home occupation was never identified as an allowed use, but that it may be "potentially allowed" and noted there was a vast disparity between the two terms. He added that when speaking with citizens present in 2008 during the forming of zoning regarding tattoo parlors in the EP2 zone that they had never intended that type of use in any area other than the EP2 zone.

Councilmember Kolodejchuk added that as a small business owner he supported other

small business owners, however, only if they properly follow state and local codes.

AB13-044 – Public Hearing, Ordinance 1487 Extending Moratorium on Medical Marijuana Facilities

Community & Economic Development Director Estep stated the City Council passed Ordinance 1433 on June 7, 2011, which first enacted a moratorium on the establishment, location, operation, licensing, maintenance or continuation of medical cannabis collective gardens or dispensaries.

On May 15, 2012 and November 6, 2012, the City Council held two additional public hearings on the extension of the moratorium and subsequently adopted Ordinances 1457 and 1470 extending the moratorium for two additional six month periods to provide additional time to research and provide a regulatory framework and to further refine the City's work program.

Given the continuing uncertainty of the legal status of possession of marijuana, collective gardens, dispensaries and other facilities under the current law, the City required additional time to consider zoning, licensing, and taxation regulations for marijuana or cannabis dispensaries, collective gardens, processing facilities, and production facilities, and wished to continue a moratorium pending further direction from the State on the issue.

During the last six (6) month moratorium, Initiative 502 was passed by the citizens of the State of Washington legalizing marijuana. During the proposed moratorium, staff would evaluate the impact of the implementation of Initiative 502 on the City, including research and analysis to recommend additional land use and other regulations needed to address issues raised by the terms of Initiative 502. The staff's work in this regard could not be finalized until after the adoption of rules by the State Liquor Control Board, scheduled for December 2013.

Councilmember Cook questioned the conflict between federal and state law regarding marijuana and whether the disparities would continue to create problems. City Administrator Lindell responded that under preemption law the federal law was superior to state law and would have to be considered when drafting future regulations related to the issue.

Mayor Hearing opened the Public Hearing on the Ordinance extending the Medical Marijuana Moratorium at 8:00 p.m. There were no public comments and the Mayor closed the Public Hearing at 8:00 p.m.

Councilmember Pettersen **MOVED**, seconded by Councilmember Kolodejchuk to approve AB13-044, an ordinance renewing a six month moratorium on the establishment of medical marijuana facilities, as a first and final reading. The motion **PASSED** 7-0.

AB13-045 – Motion Authorizing Amendment to Snoqualmie Police Services ILA

City Administrator Lindell reported on September 4, 2012 Council had authorized the Mayor to enter into an Interlocal Agreement with the City of Snoqualmie for Police Services (ILA). The ILA was fully executed by both cities and provided that Snoqualmie would hire six (6) new police officers to serve North Bend. Certain Councilmembers expressed an interest in increasing the level of service above this limit. Councilmember Rosen requested that the City Administrator prepare an Amendment to the ILA to provide for the addition of a seventh officer.

The First Amendment to the ILA for a seventh police officer was approved by the City Council on October 2, 2012. The First Amendment was forwarded to the City of Snoqualmie for review and approval. The City of Snoqualmie was unable to approve the First Amendment because of issues raised by the police guild regarding termination of a newly hired police officer after one year of service since the prior First Amendment allowed the City of North Bend to reduce the level of service back to six officers at any time after the expiration of the first year.

The current proposed amendment was to add a seventh police officer at the cost of a flat fee of \$143,000 a year for 5 years. Councilmember Rosen had previously proposed that the City invest a portion of the savings realized from the Snoqualmie Police contract (approximately \$300,000 a year) into additional police services for North Bend. Under the terms of the proposed First Amendment, North Bend would be unable to eliminate the seventh officer during the term of the ILA.

The remaining terms and conditions of the ILA remained in full force and effect. The Public Health & Safety Committee raised questions about whether or not North Bend would benefit exclusively from the patrol hours of these seven new officers. Under the terms of the ILA, Snoqualmie must allocate the patrol time of all seven officers to North Bend unless there were critical concurrent calls for service that required a North Bend officer on patrol to respond to Snoqualmie. Similarly, North Bend would benefit from this reciprocal arrangement if North Bend required back up from the two officers patrolling in Snoqualmie during a critical police event. North Bend would receive the patrol hours of seven police officers but the actual officers may at times be existing Snoqualmie officers and not necessary the seven new police officers hired for North Bend under the ILA in order to facilitate scheduling and insure that a minimum of one police officer was on patrol at all times.

Snoqualmie Police Chief McCulley spoke briefly about the benefit of using contract savings to invest in an additional officer and commended Council for their commitment to the public safety.

Councilmember Loudonback **MOVED**, seconded by Councilmember Williamson to approve AB13-045, authorizing the Mayor to execute an amendment to the Interlocal

Agreement between North Bend and Snoqualmie for Police Services to increase the staffing to seven (7) police officers. The motion **PASSED** 7-0.

AB13-046 – Resolution 1617 Granting Final Plat Approval for Cedar Falls Division 2

Public Works Director Page explained Cedar Falls Way LLC received approval for preliminary plat on February 24, 2011 to subdivide 35.52 acres into 142 single-family residential lots at Maloney Grove Avenue SE/SE Cedar Falls Way. Conditions of approval were necessary to mitigate specific impacts of the proposed development.

Cedar Falls LLC submitted a Final Plat application on November 15, 2012 for Division II of the Cedar Falls Subdivision, subject to compliance with all applicable regulations. This division encompassed 76 homes and all of the infrastructure, park and utilities associated with such.

The request for final plat approval was previously presented to Council on March 5, 2013. Due to issues and concerns raised by the City Engineer, staff was unable to recommend approval of the Cedar Falls Final Plat application and the plat was returned to the applicant. Since March 5, 2013, staff had met with the applicant on several occasions to resolve issues surrounding the storm water facilities, resulting in the applicant agreeing to enter into an Agreement to Bond for Stormwater Facilities and Release of Claims ("Bond Agreement"). The Bond Agreement was reviewed and approved by the City Attorney.

Under the terms of the Bond Agreement, the applicant was required to obtain a performance bond in the amount of 150% of the cost of replacing the stormwater facilities and had certain maintenance and repair obligations lasting from five to possibly 10 years. The full execution of the Bond Agreement and applicant's performance with the contractual conditions therein, had resolved staff issues concerning the stormwater.

Staff reviewed the Covenants, Conditions and Restrictions of Record (CC&R's) related to Bioretention Best Management Practices – Operation and Maintenance Manual. These specific maintenance obligations were recorded against the plat and would be binding obligations upon subsequent homeowners. In addition to the CC&Rs, staff included the following plat condition regarding the stormwater facilities:

"The maintenance of all treatment, retention, and infiltration cells and other drainage features outside the roadway prism will be the responsibility of a home owners association. In the event the HOA fails in the future, the maintenance of these facilities shall fall equally upon all property owners that front onto a storm drainage element or have any such element go through their lots. In the event that the herein described drainage features are not adequately maintained, the City of North Bend shall have the right, but not the obligation to maintain the features. The City will be entitled to reimbursement for such maintenance costs from the HOA, or in the event the HOA fails

in the future, from abutting property owners. The roadway prism shall be defined as the pavement and curb area and that area two (2) feet outside of the curb on either side.”

Based on the foregoing analysis for meeting North Bend Municipal Code requirements as well as the preliminary plat conditions staff recommended Final Plat Approval of Cedar Falls Division II.

Councilmember Kolodejchuk **MOVED**, seconded by Councilmember Loudenback to approve AB13-046, a resolution granting final plat approval for Division II of the Cedar Falls Subdivision, subject to full execution of the Bond Agreement. The motion **PASSED** 7-0.

MAYOR, COUNCIL, AND ADMINISTRATOR CONCERNS AND INITIATIVES:

Councilmember Loudenback thanked Sound Cites Association Executive Director Deanna Dawson for providing an update on recent SCA activities. He encouraged all Councilmembers to consider volunteering on one of the many important subcommittees that are a part of the SCA.

Councilmember Rosen acknowledged Ms. Dawson’s comments regarding Councilmember Loudenback’s involvement in the SCA and thanked him for his commitment and contribution to the organization.

Councilmember Kolodejchuk echoed Councilmember Rosen’s comments regarding Councilmember Loudenback and added his thanks to Mayor Hearing as well for his contributions the Sound Cities Association.

Councilmember Cook expressed his dismay at the recent events that took place at the Boston Marathon and added that those affected were in everyone’s thoughts and prayers.

City Administrator Lindell thanked Public Works Director Page, Councilmembers and citizens that were involved in the grant submittal to the Federal Land Application Program for the 468th road improvement project. She also thanked Council for their decision to add a seventh officer as part of the upcoming police services contract with Snoqualmie and for their ongoing commitment to public safety. She acknowledged Councilmember Gothelf’s leadership during discussions of the Eastside Fire & Rescue partnership.

Mayor Hearing welcomed two new city employees, Don DeBerg, Project Manager/Engineer and Carrie Lee, Public Works Officer Coordinator.

He announced the North Bend Blues Walk was scheduled for Saturday, April 20th from 6 p.m. to midnight. The event featured a wonderful selection of music at eleven great venues in the downtown area.

Mayor Hearing noted the City would host a special recycling event for residents on Saturday, April 27th from 9 a.m. to 3 p.m. at the Snoqualmie Middle School Parking Lot. The event was free to all King County residents. Also on Saturday, April 27th the North Bend Police Department was participating in National Drug Take-Back Day from 10 a.m. until 2 p.m. The drop off point was located at the SE corner of North Bend's Park n Ride next to Rocko's Diner.

He added that the Snoqualmie Valley Indoor Playground would host a free Children's Safety Fair on Friday, May 3rd from 9:30 – 11:30 am at Si View Community Center. Information for all events was available on the City's website.

Mayor Hearing reminded everyone that King County pet licensing was offering amnesty during the month of April. Amnesty would allow cat and dog owners the opportunity to purchase or renew expired licenses without facing a fine for non-compliance. Those wishing to purchase a license could do so at City Hall or on the King County website.

EXECUTIVE SESSION:

Mayor Hearing recessed the regular meeting for an executive session at 8:26 p.m. to discuss a collective bargaining agreement, pursuant to RCW 42.30.140 (4) and potential litigation, pursuant to RCW 42.30.110(1)(i). No action would be taken as a result of the executive session, which was expected to last approximately 20 minutes and videotaping of the meeting ceased. At 8:45 p.m. City Administrator Lindell announced to audience members present outside the Council Chambers that the Executive Session was expected to last an additional ten minutes.

The regular meeting reconvened at 8:50 p.m.

ADJOURNMENT:

Councilmember Williamson **MOVED** to adjourn, seconded by Councilmember Gothelf. The motion **PASSED** 7-0.

The meeting adjourned at 8:50 p.m.

ATTEST:

Kenneth G. Hearing, Mayor

Susie Oppedal, City Clerk